



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

July 9, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hoback Stores
c/o Brad Crouch
10850 S. Highway 89
Jackson, WY 83001

Hoback Stores
c/o Lawrence J. Huhn
10850 S. Highway 89
Jackson, WY 83001

Hoback Stores
c/o Frank Hess, Registered Agent
25 E. Simpson St.
Jackson, WY 83001

RE: Emergency Administrative
Order under Section 1431 SDWA
Docket No. **SDWA-08-2004-0034**
PWS ID #5601532

Dear Mssrs. Crouch, Huhn and Hess:

Enclosed is an Emergency Administrative Order ("Order") issued by the U.S. Environmental Protection Agency ("EPA") under section 1431 of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300i. On May 25, 2004, the Hoback Stores public water supply system exceeded the maximum contaminant level (MCL) allowed for nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and if untreated, may die. Symptoms include shortness of breath and blue baby syndrome. These contaminants present in the water system may pose an imminent and substantial health endangerment to persons served by the system.

Pursuant to its authority set forth at section 1431 of the Act, 42 U.S.C. § 300i, EPA is authorized to take whatever actions



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necessary to protect human health. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Safe Drinking Water Act in the State of Wyoming.

The enclosed Order sets forth the compliance actions that the Hoback Stores water system ("the System") must take to ensure that the people served by the Hoback Stores water system are provided with safe drinking water. The penalties for failing to comply are set forth in the Order.

EPA is committed to working with Hoback Stores and the State of Wyoming to ensure the safety of the system's water supply. If you have any questions or wish to discuss this Order, please contact Gina Andrews, Environmental Scientist, at (800) 227-8917 X6688 or Peggy Livingston, Enforcement Attorney, at (800) 227-8917 x6858.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Larry Robinson, Wyoming Department of Environmental Quality
Dr. Karl Musgrave, Wyoming Department of Health
Laurie Leis, Wyoming Department of Agriculture



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July 9, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Teton County Commissioners
c/o Andy Schwartz, Chair
P.O. Box 3594
Jackson, WY 83001

Re: Emergency Administrative Order
under Section 1431 SDWA Docket
No. **SDWA-08-2004-0034**

Dear Mr. Schwartz:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Emergency Administrative Order is being issued under Section 1431 of the SDWA to the Hoback Stores corporation for the Hoback Stores Water System in Jackson, Wyoming. The Order is based on nitrate measurements of the water exceeding the maximum contaminant level (MCL). Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and if untreated, may die. Symptoms include shortness of breath and blue baby syndrome. These contaminants present in the water system may pose an imminent and substantial health endangerment to persons served by the system.



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A copy of this Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Gina Andrews at (800) 227-8917 X6688.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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)	
Hoback Stores)	
Jackson, Wyoming 83001)	
PWS ID # 5601532)	
)	
Respondent)	EMERGENCY ADMINISTRATIVE)
		ORDER
Proceedings under Section 1431)	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300i)	Docket No. SDWA-08-2004-0034
<hr/>)	

I. STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

II. JURISDICTION

- A. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Act, 42 U.S.C. § 300i.
- B. EPA has primary enforcement responsibility for the Act in the State of Wyoming.

III. FINDINGS

- A. Hoback Stores ("Respondent") is a corporation organized under the laws of the State of Wyoming. Hoback Stores was incorporated on March 2, 1995 as "The Hoback Stores." On March 27, 1995, Articles of Amendment were filed changing the name of the corporation to "Hoback Stores." As a corporation, the Respondent is a

"person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

- B. The Respondent owns and/or operates the Hoback Stores Water System (the "System") located in Teton County, Wyoming, for the provision to the public of piped water for human consumption.
- C. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" as that term is defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" as that term is defined in 40 C.F.R. § 141.2.
- D. Respondent owns and/or operates a public water system and is therefore a "supplier of water" as that term is defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. part 141.
- E. According to an May 6, 2003, sanitary survey conducted by an agent of EPA, the System is supplied solely by a groundwater source consisting of one well and serves an average of 70 persons daily through 1 service connection.
- F. For nitrate in public water systems, EPA's Maximum Contaminant Level (MCL) is 10.0 milligrams per liter (mg/L) as stated in 40 C.F.R. § 141.62(b).
- G. Water sampled from the System was analyzed on May 28, 2004 and found to have a nitrate level of 57.4 (mg/l).

- H. EPA has determined due to the level of nitrate found in the System, the System's water may present an imminent and substantial endangerment to the health of persons.
- I. EPA has found that nitrate is an acute toxin. (See 56 Fed. Reg. 3526, 3566, January 30, 1991.)
- J. EPA has found that infants below the age of six (6) months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome. (See 40 C.F.R. part 141, subpart Q, appendix A.)
- K. Prior to issuing this Order, EPA consulted with State and local authorities to confirm the information on which this Order is based and to ascertain if the authorities are taking any action. EPA's consultation included notifying the Wyoming State Epidemiologist of the May 28, 2004 analytical result. There have been no State or local actions in response to this potential threat to public health, as the State and local authorities do not have jurisdiction under the Act.
- L. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in Wyoming.
- M. By issuing this Order, EPA seeks to protect public health.

IV. ORDER

Based on the above Findings, and pursuant to section 1431 of the Act, IT IS ORDERED:

A. INTENT TO COMPLY

Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order. The written response shall include a general plan for compliance with each of the elements of this Order.

B. ALTERNATIVE WATER SUPPLY

Upon the effective date of this Order, Respondent shall notify all water users of the System that water supply is unsafe and not to be used for any means other than handwashing until Respondent receives notification to the contrary from EPA. An alternative source of water must be used for any culinary purposes, including but not limited to brewing coffee, preparing fountain drinks, washing produce, and for employee and/or public consumption, or any other use for food or drink preparation. Respondent shall provide an alternative water supply. The alternative water supply shall meet the federal standards set forth in the National Primary Drinking Water Regulations, and must be made available at no cost as needed for human consumption until Respondent receives notification from EPA that alternative water is no longer necessary.

C. COMPLIANCE MEASURES

1. Immediately upon receipt of this Order, but no later than 3 days after receipt of this Order, Respondent shall collect and submit for analysis a confirmation nitrate sample as required by 40 C.F.R. § 141.23(f)(2). Results must be reported immediately to EPA by fax. Upon receipt of the confirmation sample result, EPA will develop a monitoring schedule, which will be

incorporated into this order to address future nitrate monitoring requirements for the System.

2. Within one week of receipt of this Order, Respondent shall submit to EPA a detailed plan to EPA and the Wyoming Department of Environmental Quality (WDEQ) for bringing the System into compliance with the nitrate MCL at 40 C.F.R. § 141.62(b). The plan shall include the following, at a minimum:
 - a. Proposed system modifications including installation of treatment;
 - b. Manufacturers specifications of any treatment devices to be installed;
 - c. Estimated costs of modifications; and
 - d. A schedule for construction of the project that includes specific milestone dates and a final compliance date.
3. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.

D. PUBLIC NOTICE

1. No later than 24 hours of receipt of this Order, Respondent shall provide public notice to all persons served by the water system. This public notice shall be given in one or more of the following forms of delivery: (1) Appropriate broadcast media (such as radio and television); (2) Posting of the notice in conspicuous locations throughout the area served by the water system, including, but not limited to, posting over every faucet at the water system; (3) Hand delivery of the notice to persons served by the water system; or (4) Another delivery method approved in writing by EPA. The notice shall

be continuous as long as the violation exists. Respondent shall comply with any additional public notification requirements that may be established by EPA. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

2. Respondent shall include the following mandatory health effects language in the public notice as specified in 40 C.F.R. § 141.205(d)(1), appendix B to subpart Q of part 141:

Infants below the age of six (6) months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

In addition, the public notice shall state the following:

UNTIL FURTHER NOTIFIED, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, SHALL BE OBTAINED FROM AN ALTERNATE SOURCE. ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

DO NOT BOIL THE WATER. Boiling, freezing, filtering, or letting water stand does not reduce the nitrate level. Excessive boiling can make the nitrates more concentrated, because nitrates remain behind when the water evaporates.

F. REPORTING REQUIREMENTS

1. Unless otherwise specified, all reports and notifications herein required shall

be submitted to:

Gina Andrews
US Environmental Protection Agency
Technical Enforcement Program (8ENF-W)
999 18th Street Suite 300
Denver, Colorado 80202-2466
Telephone (800)227-8917 X 6688 or (303) 312-6688
Fax (303) 312-6409
e-mail andrews.gina@epa.gov

V. GENERAL PROVISIONS

- A. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
- B. Violation of any term of this Order instituted under section 1431(a) of the Act, 42 U.S.C. § 300i(a), may subject the Respondent to a civil penalty of not to exceed \$16,500 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
- C. Violation of any requirement of the Act or its implementing regulations instituted under section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
- D. The effective date of this Order shall be the date of issuance.

Issued this 9th day of July, 2004.

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
JULY 9, 2004.**